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<p style="text-align: right;">Page 1</p> <p>UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK -----X MARIA SUAREZ, Plaintiff, -against 19-CV-02721-GRB-SIL SOUTHERN GLAZER'S WINE & SPIRITS OF NEW YORK, LLC, Defendant. -----X October 4, 2022 200 Broadhollow Road Melville, New York 1:30 p.m. EXAMINATION BEFORE TRIAL of a Defendant, Southern Glazer's Wine & Spirit, by Tonisha Durant, pursuant to Notice, held at the above-mentioned time and place, before Camille Dandola, a Notary Public of the State of New York.</p>	<p style="text-align: right;">Page 3</p> <p>1 FEDERAL STIPULATIONS 2 3 IT IS HEREBY STIPULATED AND AGREED 4 by and between the counsel for the respective 5 parties hereto, that the filing, sealing, and 6 certification of the within deposition shall 7 be and the same are hereby waived; 8 9 IT IS FURTHER STIPULATED AND AGREED 10 that all objections, except as to the 11 form of the question, shall be reserved 12 to the times of the trial. 13 14 IT IS FURTHER STIPULATED AND AGREED 15 that the within deposition may be signed before 16 any Notary Public with the same force and 17 effect as if signed and sworn to before this 18 court. 19 20 21 * * * * 22 23 24 25</p>
<p style="text-align: right;">Page 2</p> <p>1 APPEARANCES: 2 3 MOSER LAW FIRM, PC Attorneys for Plaintiff 4 5 East Main Street Huntington, New York 11743 5 6 BY: STEVEN MOSER, ESQ. 7 8 CONSTANGY BROOKS SMITH & PROPHETE, LLP Attorneys for Defendant 9 175 Pearl Street, Suite C-402 Brooklyn, New York 11201 10 BY: ANJANETTE CABRERA, ESQ. 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p style="text-align: right;">Page 4</p> <p>1 TONISHA DURANT, the witness herein, 2 having been first duly sworn by a Notary Public 3 in and of the State of New York, was examined 4 and testified as follows: 5 THE REPORTER: Please state your 6 name and address for the record. 7 THE WITNESS: Tonisha Durant, 345 8 Underhill Boulevard, Syosset, New York. 9 EXAMINATION BY 10 MR. MOSER: 11 Q. Good afternoon. My name is Steve 12 Moser. I am an attorney. I represent Maria Suarez 13 or I represent her in the lawsuit that she brought 14 against Southern Glazer's Wine and Spirits. 15 Are you an employee of Southern 16 Glazer's Wine and Spirits? 17 A. I am. 18 Q. Before it was Southern Glazer's Wine 19 and Spirits it was Southern Wine and Spirits; is 20 that correct? 21 A. That's correct. 22 Q. For the purposes of this deposition 23 when I say "Southern" I'll mean Southern Glazer's 24 Wine and Spirits or Southern Wine and Spirits. Do 25 you understand that?</p>

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<p>1 T. DURANT</p> <p>2 A. Yes.</p> <p>3 Q. Have you ever testified under oath?</p> <p>4 A. Yes.</p> <p>5 Q. On how many different occasions?</p> <p>6 A. One.</p> <p>7 Q. When was that?</p> <p>8 A. April of this year, I believe.</p> <p>9 Q. With regard to?</p> <p>10 A. Grievance for Ena Scott.</p> <p>11 Q. I believe that Kevin Randall also</p> <p>12 testified at that grievance. Are you aware of any</p> <p>13 other individuals who testified besides you and Mr.</p> <p>14 Randall?</p> <p>15 A. No.</p> <p>16 Q. Why were you called to testify?</p> <p>17 A. Because I am Ena's manager.</p> <p>18 Q. What was the nature of the grievance?</p> <p>19 A. It was a title issue. A job title</p> <p>20 issue.</p> <p>21 Q. What was the specific job title issue?</p> <p>22 A. She was promoted to lead inventory</p> <p>23 control clerk and it's a clerical position.</p> <p>24 Q. What was her issue with that?</p> <p>25 A. I believe she thought that was a</p>	<p>1 T. DURANT</p> <p>2 Q. Was there a decision issued after you</p> <p>3 testified?</p> <p>4 A. Yes.</p> <p>5 Q. By whom? The arbitrator?</p> <p>6 A. Yes.</p> <p>7 Q. What was the arbitrator's decision?</p> <p>8 A. I don't remember. That went between</p> <p>9 Southern and Ena.</p> <p>10 Q. Today is Ena Scott classified as</p> <p>11 clerical or warehouse?</p> <p>12 A. Clerical.</p> <p>13 Q. Today is Tatiana Herdocia still</p> <p>14 employed by Southern?</p> <p>15 A. Yes.</p> <p>16 Q. Is Tatiana Herdocia classified as</p> <p>17 warehouse or clerical?</p> <p>18 A. Clerical.</p> <p>19 Q. Do Tatiana and Ena report to you?</p> <p>20 A. Yes.</p> <p>21 Q. Who else reports to you today?</p> <p>22 A. Justin Vey.</p> <p>23 Q. Anyone else right now?</p> <p>24 A. I am looking for another employee. One</p> <p>25 of my employees just moved.</p>
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<p>1 T. DURANT</p> <p>2 warehouse position.</p> <p>3 Q. When you say "warehouse position"</p> <p>4 you're referring to -- are you referring to a job</p> <p>5 that is classified as warehouse under the</p> <p>6 Collective Bargaining Agreement?</p> <p>7 A. That's correct.</p> <p>8 Q. When you say "clerical" you mentioned</p> <p>9 clerical before are you also referring to a job</p> <p>10 that is classified as clerical under the Collective</p> <p>11 Bargaining Agreement?</p> <p>12 A. That is correct.</p> <p>13 Q. Did you testify by Zoom or in person?</p> <p>14 A. Person.</p> <p>15 Q. Where was that?</p> <p>16 A. At 313 Underhill.</p> <p>17 Q. Was there a stenographer?</p> <p>18 A. I believe they were on the phone. I</p> <p>19 think, yeah, I think they were virtual.</p> <p>20 Q. Did you ever see a transcript of your</p> <p>21 testimony?</p> <p>22 A. No.</p> <p>23 Q. Was a transcript of your testimony</p> <p>24 taken?</p> <p>25 A. I don't know.</p>	<p>1 T. DURANT</p> <p>2 Q. Which employee moved?</p> <p>3 A. William Scarpenelli.</p> <p>4 Q. When did Mr. Scarpenelli work for</p> <p>5 Southern?</p> <p>6 A. He just made his two years as of</p> <p>7 September 8th, I believe.</p> <p>8 Q. Did Justin Vey previously report to</p> <p>9 Maria Suarez?</p> <p>10 A. Yes, sir.</p> <p>11 Q. As well as Ena Scott and Tatiana</p> <p>12 Herdocia?</p> <p>13 A. That's correct.</p> <p>14 Q. What is Tatiana's title?</p> <p>15 A. Inventory control clerk, I believe.</p> <p>16 Q. Justin Vey?</p> <p>17 A. The same.</p> <p>18 Q. Is Justin Vey classified as warehouse</p> <p>19 or clerical?</p> <p>20 A. Clerical.</p> <p>21 Q. Are you aware of any lawsuits that were</p> <p>22 brought by either Tatiana or Ena against Southern?</p> <p>23 A. No.</p> <p>24 Q. Are you aware of any lawsuits brought</p> <p>25 by Josie Ann Sajous against Southern?</p>

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<p style="text-align: right;">Page 9</p> <p>1 T. DURANT</p> <p>2 A. No, that was before my time.</p> <p>3 Q. When you say that was before your time?</p> <p>4 A. I was in accounting at that time.</p> <p>5 Josie worked for Maria.</p> <p>6 Q. Did you hear anything about the</p> <p>7 lawsuits when you were in accounting?</p> <p>8 A. No.</p> <p>9 Q. When did you first become aware that</p> <p>10 there had been a lawsuit filed by Ena Scott?</p> <p>11 MS. CABRERA: Objection to the</p> <p>12 form of the question.</p> <p>13 Q. Before today are you aware as you sit</p> <p>14 here today whether or not Ena Scott ever sued</p> <p>15 Southern?</p> <p>16 A. I am aware as of it now, yes.</p> <p>17 Q. Before today?</p> <p>18 A. Very recently I was aware of it, yes.</p> <p>19 Q. How recently did you become aware?</p> <p>20 A. When we were in arbitration.</p> <p>21 Q. When was that arbitration again?</p> <p>22 A. April or May.</p> <p>23 Q. Before then you did not know that Ena</p> <p>24 had sued Southern?</p> <p>25 A. No.</p>	<p style="text-align: right;">Page 11</p> <p>1 T. DURANT</p> <p>2 A. I don't recall her name.</p> <p>3 Q. Was Maria an inventory control manager</p> <p>4 in the warehouse when you became inventory control</p> <p>5 coordinator?</p> <p>6 A. I don't remember.</p> <p>7 Q. At some point did your title change?</p> <p>8 A. Yes.</p> <p>9 Q. When did it change?</p> <p>10 A. My first title changed about 10 years</p> <p>11 ago. I am going on my 15th year.</p> <p>12 Q. So that would be approximately 2012?</p> <p>13 A. Yes, I would say about that.</p> <p>14 Q. What was your new title?</p> <p>15 A. I became inventory control manager in</p> <p>16 accounting.</p> <p>17 Q. Are you aware of what Ena Scott accused</p> <p>18 Southern of in the lawsuit?</p> <p>19 A. No.</p> <p>20 Q. Have you been continuously employed by</p> <p>21 Southern since 2017?</p> <p>22 A. Yes.</p> <p>23 Q. Since 2017, has there been a person</p> <p>24 classified as warehouse who was a woman?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 10</p> <p>1 T. DURANT</p> <p>2 Q. Before that you did not know that</p> <p>3 Tatiana had not sued Southern?</p> <p>4 A. No.</p> <p>5 Q. Before then did you know that Josie's</p> <p>6 had sued Southern?</p> <p>7 A. No.</p> <p>8 Q. When did you first learn that Josie's</p> <p>9 had sued Southern, was that also at that</p> <p>10 arbitration?</p> <p>11 A. No, that was actually -- I don't</p> <p>12 remember how far. It was probably about a year</p> <p>13 ago, I learned about Josie's. But I didn't know</p> <p>14 Josie so. . .</p> <p>15 Q. When were you hired by Southern?</p> <p>16 A. 2007 December 31st.</p> <p>17 Q. What position were you hired into?</p> <p>18 A. Inventory control coordinator.</p> <p>19 Q. Was that a supervisory position?</p> <p>20 A. No. It was a clerk position.</p> <p>21 Q. At the time that you were hired as the</p> <p>22 inventory control coordinator was there inventory</p> <p>23 control manager?</p> <p>24 A. Yes.</p> <p>25 Q. Who was the inventory control manager?</p>	<p style="text-align: right;">Page 12</p> <p>1 T. DURANT</p> <p>2 Q. Who was that?</p> <p>3 A. Linda -- I don't remember her name.</p> <p>4 She was an overnight supervisor.</p> <p>5 Q. She was a supervisor?</p> <p>6 A. Yes.</p> <p>7 Q. Classified as warehouse?</p> <p>8 A. She was warehouse, yes.</p> <p>9 Q. So when did she work for Southern?</p> <p>10 A. I don't know.</p> <p>11 Q. Any estimate?</p> <p>12 A. She was there in 2017. I think she</p> <p>13 probably left 2018 or '19. I'm not sure.</p> <p>14 Q. Do you know why she left?</p> <p>15 A. She was part of the reorganize.</p> <p>16 Q. Other than that woman Linda are you</p> <p>17 aware of any other female who had the warehouse</p> <p>18 classification at the Syosset facility since 2017?</p> <p>19 A. No. There's women that worked there at</p> <p>20 night in the office but I am sure that they are</p> <p>21 classified as warehouse also.</p> <p>22 Q. Who are they?</p> <p>23 A. I don't know their names.</p> <p>24 Q. How do you know they were classified as</p> <p>25 warehouse?</p>

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<p style="text-align: right;">Page 13</p> <p>1 T. DURANT</p> <p>2 A. I am assuming that they work there at</p> <p>3 night, they could be clerical, but there are women</p> <p>4 there at night.</p> <p>5 Q. How do you know that Linda was a</p> <p>6 warehouse classified individual?</p> <p>7 A. Because she was a warehouse supervisor.</p> <p>8 Q. I am just curious how long was she with</p> <p>9 the union before she became a supervisor?</p> <p>10 A. Linda wasn't with the union. She was a</p> <p>11 supervisor.</p> <p>12 Q. She wasn't covered by the Collective</p> <p>13 Bargaining Agreement?</p> <p>14 A. No, she was an employee of Southern.</p> <p>15 Q. When I say -- she wasn't a union</p> <p>16 member, correct?</p> <p>17 A. No.</p> <p>18 Q. Are you aware of any female union</p> <p>19 employees at the Syosset facility who were</p> <p>20 classified as warehouse?</p> <p>21 A. I don't know. I work during the day.</p> <p>22 I don't work at night. I wouldn't know.</p> <p>23 Q. How many warehouse men work during the</p> <p>24 day?</p> <p>25 A. I don't know. I don't work for the</p>	<p style="text-align: right;">Page 15</p> <p>1 T. DURANT</p> <p>2 A. If they apply, I am sure that they</p> <p>3 would be hired.</p> <p>4 Q. Are you aware the women did apply?</p> <p>5 MS. CABRERA: Objection.</p> <p>6 A. I don't know.</p> <p>7 MS. CABRERA: I am going to</p> <p>8 object. There is a discrimination</p> <p>9 claim in this case. A retaliation</p> <p>10 claim and exception claim. I have</p> <p>11 allowed you to ask these question as</p> <p>12 background. I believe at this point it</p> <p>13 is becoming an excessive waste of time.</p> <p>14 Q. In your opinion does Southern take</p> <p>15 steps to make sure that discrimination either</p> <p>16 doesn't happen or is eliminated in the workplace?</p> <p>17 A. Absolutely.</p> <p>18 Q. How do they do that?</p> <p>19 A. You would have to speak with Southern.</p> <p>20 I wouldn't know. I know on my hand, I'm a black</p> <p>21 female doing very well at Southern so.</p> <p>22 Q. Who asked you to testify at the</p> <p>23 arbitration?</p> <p>24 MS. CABRERA: Objection. I am</p> <p>25 going to direct her not to answer that</p>
<p style="text-align: right;">Page 14</p> <p>1 T. DURANT</p> <p>2 warehouse.</p> <p>3 Q. You work in the warehouse?</p> <p>4 A. I work in the warehouse.</p> <p>5 Q. Can you give me any approximation of</p> <p>6 how many warehouse personal?</p> <p>7 A. Around 70 or 80 people.</p> <p>8 Q. Have you ever seen a female warehouse</p> <p>9 employee in the day?</p> <p>10 A. No.</p> <p>11 Q. Has that particular issue ever been</p> <p>12 topic of any meetings that you attended?</p> <p>13 A. Female warehouse employees as in union?</p> <p>14 We have supervisors.</p> <p>15 Q. I mean union employees.</p> <p>16 A. No.</p> <p>17 Q. Has that topic ever come up in any</p> <p>18 meetings that you have attended?</p> <p>19 A. No.</p> <p>20 Q. Do you think that Southern</p> <p>21 discriminates against women with regard to the</p> <p>22 warehouse classification?</p> <p>23 A. No.</p> <p>24 Q. Do you know why at least during the day</p> <p>25 there are no female warehouse employees?</p>	<p style="text-align: right;">Page 16</p> <p>1 T. DURANT</p> <p>2 question. Attorney/client privilege.</p> <p>3 And if you continue to ask</p> <p>4 questions about the arbitration I'm</p> <p>5 going to move to have that portion of</p> <p>6 this transcript be sealed.</p> <p>7 As you know an arbitration is a</p> <p>8 confidential alternative dispute</p> <p>9 resolution. This a public case, right,</p> <p>10 and this is a transcript that can be</p> <p>11 used and I am going to place my</p> <p>12 objection if you continue to ask</p> <p>13 questions about the arbitration. If</p> <p>14 you continue to go down this road,</p> <p>15 we're going to have to get on the phone</p> <p>16 with the court.</p> <p>17 I've allowed it as some background</p> <p>18 with regard to the witness' experience</p> <p>19 with testifying. Beyond that it is not</p> <p>20 relevant.</p> <p>21 Q. What's your current title?</p> <p>22 A. Inventory control manager.</p> <p>23 Q. How long have you had that particular</p> <p>24 title?</p> <p>25 A. For about six years I guess.</p>

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<p>1 T. DURANT</p> <p>2 Q. That would be since approximately 2016?</p> <p>3 A. Yes. That would be WMI inventory</p> <p>4 control manager.</p> <p>5 Q. Did you ever supervise Maria Suarez?</p> <p>6 A. No.</p> <p>7 Q. Did Maria Suarez ever report to you?</p> <p>8 A. No.</p> <p>9 Q. Who supervised Maria Suarez?</p> <p>10 A. John Wilkinson.</p> <p>11 Q. Did you ever have discussions with John</p> <p>12 Wilkinson about Maria?</p> <p>13 A. Yes.</p> <p>14 Q. Did you ever have discussions with John</p> <p>15 Wilkinson about Maria when Maria was not present?</p> <p>16 A. Yes. Let him know that I was sending</p> <p>17 her something that I needed her to check on.</p> <p>18 Q. Were you involved at all in any</p> <p>19 discipline of Maria?</p> <p>20 A. No.</p> <p>21 Q. Were you involved at all in her</p> <p>22 separation from employment?</p> <p>23 A. No.</p> <p>24 Q. Do you know why she separated from</p> <p>25 employment?</p>	<p>1 T. DURANT</p> <p>2 Q. That was during the go-alive?</p> <p>3 A. During the go-alive.</p> <p>4 Q. Did you receive any training in WMI</p> <p>5 before the go-alive?</p> <p>6 A. No.</p> <p>7 Q. Did Maria Suarez receive any training,</p> <p>8 WMI, before the go-live?</p> <p>9 A. No.</p> <p>10 Q. Did John Wilkinson receive training</p> <p>11 before the WMI go-live?</p> <p>12 A. I am not sure.</p> <p>13 Q. So at the go-live you had, were you</p> <p>14 present during the go-live?</p> <p>15 A. Yes.</p> <p>16 Q. Who else was present?</p> <p>17 A. It was a team of people. I don't know.</p> <p>18 Q. Was John there?</p> <p>19 A. John was there.</p> <p>20 Q. Maria Suarez?</p> <p>21 A. Yes. Melissa was there. The people</p> <p>22 from Florida were there and people from different</p> <p>23 divisions were there.</p> <p>24 Q. Did you receive any training materials?</p> <p>25 A. Yes.</p>
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<p>1 T. DURANT</p> <p>2 A. Not my business, nope.</p> <p>3 Q. Before you were the WMI inventory</p> <p>4 control manager, you were the inventory control</p> <p>5 manager in accounting, correct?</p> <p>6 A. Is that correct, yes.</p> <p>7 Q. How did your job change if at all when</p> <p>8 you became the WMI inventory control manager?</p> <p>9 A. Instead of analyzing the data I now</p> <p>10 have the physical cases in front of me. So in</p> <p>11 accounting you just go by what data information</p> <p>12 that is provided to you. Now I can actually walk</p> <p>13 up to the case to confirm.</p> <p>14 Q. Other than that did your job change at</p> <p>15 all when you became WMI inventory control manager?</p> <p>16 A. The system changed but the duties are</p> <p>17 pretty much the same.</p> <p>18 Q. Were you trained in WMI?</p> <p>19 A. Yes.</p> <p>20 Q. By whom?</p> <p>21 A. Melissa. There was a few different</p> <p>22 divisions came out to assist us with the go-alive</p> <p>23 and whoever else I can lean on.</p> <p>24 Q. So you received training from Melissa?</p> <p>25 A. Yes.</p>	<p>1 T. DURANT</p> <p>2 Q. That was during the go-live week?</p> <p>3 A. Yes.</p> <p>4 Q. Did you ever receive any additional</p> <p>5 training at WMI after the go-live week?</p> <p>6 A. Whenever I needed some assistance in</p> <p>7 anything, I would just call people.</p> <p>8 Q. Who would help you?</p> <p>9 A. Melissa is my main person of contact.</p> <p>10 Q. Who did you report to when you became</p> <p>11 the WMI inventory control manager?</p> <p>12 A. Kevin Randall.</p> <p>13 Q. When you became WMI inventory control</p> <p>14 manager did Maria Suarez' job title change?</p> <p>15 A. She was the WMI administrator, I</p> <p>16 believe.</p> <p>17 Q. Do you know if her duties changed at</p> <p>18 all when she became the WMI administrator?</p> <p>19 A. It was pretty much the same.</p> <p>20 Q. When did you begin supervising the</p> <p>21 inventory control clerk?</p> <p>22 A. I started probably mid of 2021.</p> <p>23 Q. Before then who was supervising the</p> <p>24 inventory control clerk?</p> <p>25 A. Before it was Maria. After Maria</p>

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<p style="text-align: right;">Page 21</p> <p>1 T. DURANT</p> <p>2 departed it was Barry and then myself.</p> <p>3 Q. Is Barry Finkelstein still employed?</p> <p>4 A. Yes.</p> <p>5 Q. For how long did he supervise the</p> <p>6 inventory control clerk?</p> <p>7 A. Maybe for two years. I don't know.</p> <p>8 Q. Did he also do the job of WMI</p> <p>9 administrator?</p> <p>10 A. He assisted me. I picked up a lot of</p> <p>11 slack after Maria left and Barry assisted me.</p> <p>12 Q. Were you responsible for doing any of</p> <p>13 the things listed on Plaintiff's Exhibit 2, which</p> <p>14 is this document, after Maria left?</p> <p>15 A. (Witness perusing document.) Yes.</p> <p>16 Q. Were you responsible for all of those</p> <p>17 things on that list after Maria left?</p> <p>18 A. Around 90 percent of it, yep.</p> <p>19 Q. Did you ever share an office with</p> <p>20 Maria?</p> <p>21 A. No.</p> <p>22 Q. Do you know what she did on a regular</p> <p>23 basis as WMI administrator?</p> <p>24 A. We can only go by what the system</p> <p>25 states.</p>	<p style="text-align: right;">Page 23</p> <p>1 T. DURANT</p> <p>2 Q. If she was doing cycle counting would</p> <p>3 that have been reflected in the system?</p> <p>4 A. Absolutely her name would pop up.</p> <p>5 Q. Did you ever have any knowledge whether</p> <p>6 or not she was doing cycle counting at any time as</p> <p>7 WMI administrator?</p> <p>8 A. As far as I recall her name never</p> <p>9 popped up.</p> <p>10 Q. Whose name would pop up?</p> <p>11 A. Tatiana, Ena, Justin, Anthony, Raul.</p> <p>12 Q. Are there reports generated which can</p> <p>13 show who generated cycle counts?</p> <p>14 A. Yes.</p> <p>15 Q. Those reports would conclusively show</p> <p>16 whether Maria was doing cycle counting, correct?</p> <p>17 A. Absolutely.</p> <p>18 Q. How long do you keep these records for?</p> <p>19 A. I believe they get purged once a year,</p> <p>20 Every year or so.</p> <p>21 Q. Records showing whether or not Maria</p> <p>22 was actually doing cycle counting would not exist</p> <p>23 at this point; is that correct?</p> <p>24 A. That is correct.</p> <p>25 Q. Were you ever present at any meetings</p>
<p style="text-align: right;">Page 22</p> <p>1 T. DURANT</p> <p>2 Q. Did you ever witness her doing her job?</p> <p>3 A. I never paid attention to it.</p> <p>4 Q. Did you ever see what she was doing</p> <p>5 during the day?</p> <p>6 A. No.</p> <p>7 Q. There are RF guns?</p> <p>8 A. Yes.</p> <p>9 Q. Do they communicate with the computer?</p> <p>10 A. Yes.</p> <p>11 Q. Was Maria issued an RF gun?</p> <p>12 A. I don't know. I had an RF gun.</p> <p>13 Q. Did you ever have to verify a count?</p> <p>14 A. Yes.</p> <p>15 Q. When you verified a count with your RF</p> <p>16 gun does it show that that's your RF gun?</p> <p>17 A. Yes. Your count will override the</p> <p>18 previous count if it's incorrect.</p> <p>19 Q. When you do a count with the RF gun it</p> <p>20 will show that you were the one that did the count?</p> <p>21 A. Absolutely.</p> <p>22 Q. Was Maria doing cycle counting?</p> <p>23 A. No. She was doing confirmations. She</p> <p>24 should have been doing confirmations not cycle</p> <p>25 counting.</p>	<p style="text-align: right;">Page 24</p> <p>1 T. DURANT</p> <p>2 with John Wilkinson and Maria Suarez?</p> <p>3 A. Yes.</p> <p>4 Q. How many different meetings?</p> <p>5 A. One meeting a week during her PIP.</p> <p>6 Q. When did her PIP begin?</p> <p>7 A. I don't know.</p> <p>8 Q. Why were you brought into the meetings</p> <p>9 during her PIP?</p> <p>10 A. So we can confirm whether or not</p> <p>11 certain tasks were being processed each week.</p> <p>12 Q. Describe for me what would happen at</p> <p>13 these weekly meetings?</p> <p>14 A. Melissa sends down the report of what</p> <p>15 wasn't completed and John and Maria would go back</p> <p>16 and forth to find out what was done and what wasn't</p> <p>17 done.</p> <p>18 Q. How long were the meetings typically?</p> <p>19 A. Probably about a half hour to 45</p> <p>20 minutes. Depending on the length of the task that</p> <p>21 had to be gone through.</p> <p>22 Q. So describe for me what would happen at</p> <p>23 a typical meeting.</p> <p>24 A. They would go bullet by bullet and say</p> <p>25 was this done, this done, was that done.</p>

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<p style="text-align: right;">Page 25</p> <p>1 T. DURANT</p> <p>2 Q. When you say bullet by bullet you mean</p> <p>3 line by line?</p> <p>4 A. Yes. Line by line same thing as you</p> <p>5 have here (indicating).</p> <p>6 Q. When you say this what we "have here"</p> <p>7 we are talking about Plaintiff's Exhibit 2, SGWS</p> <p>8 524. John would go over this list with Maria on a</p> <p>9 weekly basis?</p> <p>10 A. Yep. Melissa sent her packet as to</p> <p>11 what was not done and Maria would go through it and</p> <p>12 find out why wasn't certain things not done.</p> <p>13 Q. Did Maria offer any explanation as to</p> <p>14 why these things were not getting done?</p> <p>15 A. Most of it was that she wasn't fast</p> <p>16 enough to do it. She couldn't get to it in time.</p> <p>17 Q. How many hours per week was Maria at</p> <p>18 working when she was under her PIP?</p> <p>19 A. I believe 35 to 40 hours. Depends on</p> <p>20 when her job is completed. I don't know.</p> <p>21 Q. Do you know whether she was working</p> <p>22 weekends?</p> <p>23 A. She wasn't working with me when I was</p> <p>24 there, no.</p> <p>25 Q. Do you know if John ever required her</p>	<p style="text-align: right;">Page 27</p> <p>1 T. DURANT</p> <p>2 on this list, right?</p> <p>3 A. Yes.</p> <p>4 Q. What would she have to do to complete</p> <p>5 the items on this list?</p> <p>6 A. She would have to either cancel the</p> <p>7 invoices. If the invoices failed during the night</p> <p>8 stream, kick back the once that can be processed</p> <p>9 through the system, and that's pretty much it.</p> <p>10 With these 10's, all these NG, these</p> <p>11 failed the night stream. All these needed to be</p> <p>12 canceled. Email sent to customer service. Let</p> <p>13 them know that these orders failed so that they can</p> <p>14 contact the customer.</p> <p>15 Q. Is there anyway to know how many Maria</p> <p>16 had actually done?</p> <p>17 A. If it is sitting on this report and it</p> <p>18 is status 10, she didn't do it at all.</p> <p>19 Q. What percentage of the total amount of</p> <p>20 work does she represent? In other words, these</p> <p>21 were the items that needed to be picked and packed</p> <p>22 and processed. How many were actually processed by</p> <p>23 her.</p> <p>24 A. You see that date, it says 2016, how</p> <p>25 would I know that?</p>
<p style="text-align: right;">Page 26</p> <p>1 T. DURANT</p> <p>2 to work overtime?</p> <p>3 A. We are will required to work overtime</p> <p>4 if needed.</p> <p>5 Q. I am going to show you what has been</p> <p>6 marked as Plaintiff's Exhibit 7 for identification</p> <p>7 and I am going to turn to --</p> <p>8 A. (Witness perusing document.)</p> <p>9 Q. So my question is: Let's take SGWS</p> <p>10 2166, Exhibit 7?</p> <p>11 MS. CABRERA: Plaintiff's Exhibit</p> <p>12 7.</p> <p>13 Q. What does this printout show?</p> <p>14 A. This is all the open orders that are</p> <p>15 sitting in the system that has to be cleared</p> <p>16 processed or cancelled. So when it says 10 that</p> <p>17 means no one did anything towards it.</p> <p>18 Q. Are these all items that Maria had to</p> <p>19 take action on?</p> <p>20 A. Yes.</p> <p>21 Q. Could she have delegated this to her</p> <p>22 staff to do it?</p> <p>23 A. No, absolutely not. She would have had</p> <p>24 to do that herself.</p> <p>25 Q. She would have had to do all the things</p>	<p style="text-align: right;">Page 28</p> <p>1 T. DURANT</p> <p>2 Q. Do you know if this represents one</p> <p>3 percent, two percent of the total items that she</p> <p>4 processed?</p> <p>5 A. This is are you referring to the total</p> <p>6 workload? This is one percent. This would take</p> <p>7 you 10 minutes to clear.</p> <p>8 Q. Do you know what time she would get to</p> <p>9 work in the morning?</p> <p>10 A. Her start time was either 8:30 or 9:00,</p> <p>11 I am not sure.</p> <p>12 Q. Do you know how many items she was</p> <p>13 actually processing every week?</p> <p>14 A. No, she was not under my supervision.</p> <p>15 I have no idea.</p> <p>16 Q. Do you know if she was successfully</p> <p>17 completing 90 percent of her tasks?</p> <p>18 A. Not if it's sitting on this piece of</p> <p>19 paper, it's not.</p> <p>20 Q. Do you know what percentage of her</p> <p>21 total task this represents? And we are looking at</p> <p>22 SGWS 2166.</p> <p>23 A. Her total this represents one percent</p> <p>24 of her total workload for the day. This processing</p> <p>25 would take five to 10 minutes out of her day to</p>

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<p style="text-align: right;">Page 29</p> <p>1 T. DURANT</p> <p>2 clear. That has to be done before the beginning of</p> <p>3 her day. These represents failed orders that the</p> <p>4 customers needs to be notified against.</p> <p>5 Q. How many of these were actually</p> <p>6 resolved? These were the ones that were</p> <p>7 unresolved, right?</p> <p>8 A. Right.</p> <p>9 Q. How many of these were actually</p> <p>10 resolved?</p> <p>11 A. This that is sitting here you do it in</p> <p>12 bulk. You don't do it one at a time. You do a</p> <p>13 snapshot of this full line and send to customer</p> <p>14 service and say it failed and cancel these orders.</p> <p>15 It's not like she has to do one at a time, it's a</p> <p>16 bulk process.</p> <p>17 Q. Is this information already in the</p> <p>18 system?</p> <p>19 A. Yes. This is a screen shot of the</p> <p>20 system.</p> <p>21 Q. She would have to send it to customer</p> <p>22 service?</p> <p>23 A. Yes.</p> <p>24 Q. Did the customer service have access to</p> <p>25 this as well?</p>	<p style="text-align: right;">Page 31</p> <p>1 T. DURANT</p> <p>2 meetings that you had with John?</p> <p>3 A. I didn't have time to do it. I</p> <p>4 couldn't get to it. I'm not as fast as you.</p> <p>5 Nonsense.</p> <p>6 Q. Do you know whether she did have time</p> <p>7 to do --</p> <p>8 A. I do it every day, so yes.</p> <p>9 Q. Do you know what else she was doing at</p> <p>10 the time?</p> <p>11 A. She was managing the cycle counters.</p> <p>12 So she would give them work in the morning so they</p> <p>13 could do their task for the day. She was supposed</p> <p>14 to reconcile the inventory as the number were</p> <p>15 coming back and go in the system and approve it or</p> <p>16 decline it. If the numbers were way off, send</p> <p>17 cycle counters back out there, reconfirm it. If</p> <p>18 you don't like their counts you walk to that</p> <p>19 location, you confirm it yourself.</p> <p>20 Q. But you never actually saw what she was</p> <p>21 doing on a daily basis?</p> <p>22 A. No, I had my own job.</p> <p>23 Q. Do you know what she was actually doing</p> <p>24 on a day-to-day basis based on your personal</p> <p>25 knowledge?</p>
<p style="text-align: right;">Page 30</p> <p>1 T. DURANT</p> <p>2 A. They don't have access to WMI.</p> <p>3 Q. All of these particular items in this</p> <p>4 document, were these all things that could be done</p> <p>5 in bulk?</p> <p>6 A. Yes, all of it. It is failed night</p> <p>7 stream orders. You 64 it, cancel it, and send it</p> <p>8 to customer service so it's out of the system.</p> <p>9 Q. She had to basically send this to</p> <p>10 customer service.</p> <p>11 A. Yes, take a screen shot of it or if the</p> <p>12 system even allows you to place it on Excel format,</p> <p>13 send it to customer service and all of these should</p> <p>14 have been canceled out.</p> <p>15 Q. Did Maria ever seem angry or hostile to</p> <p>16 you?</p> <p>17 A. Yes.</p> <p>18 Q. Why was she angry?</p> <p>19 A. You would have ask her. I don't know.</p> <p>20 Q. Why did you think that she was angry?</p> <p>21 Do you have any idea?</p> <p>22 A. She's been angry since I have known her</p> <p>23 for 15 years -- for 10 years. She has been angry</p> <p>24 ever since I known her.</p> <p>25 Q. How would Maria respond in these weekly</p>	<p style="text-align: right;">Page 32</p> <p>1 T. DURANT</p> <p>2 A. No.</p> <p>3 Q. Do you know whether she did actually</p> <p>4 have time in her day to get this done?</p> <p>5 A. Absolutely, I do it every day.</p> <p>6 Q. Did you ever see her lounging at work?</p> <p>7 A. Watching Maria wasn't on my to-do-list.</p> <p>8 Q. Did you ever see her take a break more</p> <p>9 than five minutes?</p> <p>10 A. I don't know.</p> <p>11 Q. What leads you to believe that other</p> <p>12 than the fact you have been able to do this what</p> <p>13 lead you to believe that she had the time to do</p> <p>14 this?</p> <p>15 A. It takes two seconds out of your day to</p> <p>16 do it.</p> <p>17 Q. Each one of these takes two seconds?</p> <p>18 A. Absolutely. It's a full screen shot,</p> <p>19 send to customer service, cancel the invoices. I</p> <p>20 could have done this whole thing probably within 15</p> <p>21 minutes, cleared the whole system.</p> <p>22 Q. Because of that you believe that she</p> <p>23 had enough time in her day to do that?</p> <p>24 A. Absolutely.</p> <p>25 Q. What was the risk to Southern of Maria</p>

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<p style="text-align: right;">Page 33</p> <p>1 T. DURANT</p> <p>2 not doing her job as WMI administrator correctly?</p> <p>3 A. It affects the financials, inventory</p> <p>4 levels, bottom line.</p> <p>5 Q. What had Maria been doing as inventory</p> <p>6 control manager before she became WMI</p> <p>7 administrator?</p> <p>8 A. Before my time. I have no idea. I was</p> <p>9 in accounting at that time.</p> <p>10 Q. In you were not her supervisor why were</p> <p>11 you in the meetings with her and John Wilkinson?</p> <p>12 A. I guess a third party.</p> <p>13 Q. Was she ever instructed to report</p> <p>14 things to you by email?</p> <p>15 A. Only high discrepancies and any issues</p> <p>16 that she couldn't resolve on her own.</p> <p>17 Q. When was she instructed to do this?</p> <p>18 A. At the beginning.</p> <p>19 Q. When she was first hired for that job?</p> <p>20 A. Yes.</p> <p>21 Q. What was she told specifically with</p> <p>22 regard to the discrepancies?</p> <p>23 A. At one point she didn't have a</p> <p>24 threshold. She -- if it was felt out of her</p> <p>25 comfort zone, that she should have emailed me to</p>	<p style="text-align: right;">Page 35</p> <p>1 T. DURANT</p> <p>2 approving counts -- incorrect counts.</p> <p>3 Q. What do you mean by "approving</p> <p>4 incorrect counts"?</p> <p>5 A. If the cycle counters go to a location,</p> <p>6 actually hit the cases that are not there, and but</p> <p>7 they are physically there, instead of her looking</p> <p>8 to see if those cases were there, she would just</p> <p>9 approve it, and that's inventory that we lost.</p> <p>10 Q. So what was happening was a cycle</p> <p>11 counter would go and would say -- would submit some</p> <p>12 kind of cycle count.</p> <p>13 A. Yes.</p> <p>14 Q. And would say that the product is not</p> <p>15 in this location?</p> <p>16 A. Right.</p> <p>17 Q. When it fact it was?</p> <p>18 A. Yes.</p> <p>19 Q. What happened, what happens in WMI when</p> <p>20 that happens?</p> <p>21 A. It takes that product out of inventory,</p> <p>22 takes the financials out of the budget.</p> <p>23 Q. When you say Maria would approve it --</p> <p>24 A. Yes.</p> <p>25 Q. -- was there a variance that WMI would</p>
<p style="text-align: right;">Page 34</p> <p>1 T. DURANT</p> <p>2 let me know that she has this discrepancy, if I can</p> <p>3 take a look at it.</p> <p>4 Q. This is from the very beginning?</p> <p>5 A. Yes.</p> <p>6 Q. How often did Maria communicate with</p> <p>7 you from the beginning?</p> <p>8 A. Little to none.</p> <p>9 Q. How often did John Wilkinson meet with</p> <p>10 Maria when you were not there?</p> <p>11 A. I do not know.</p> <p>12 Q. When you say out of her comfort zone?</p> <p>13 A. It was 10,000, 20,000.</p> <p>14 Q. She was allowed to approve a variance</p> <p>15 of up to 10 or 20,000?</p> <p>16 A. Not it was up to her discretion. If</p> <p>17 she was uncomfortable with it, then she should let</p> <p>18 me know so I can take a look at it, but at first</p> <p>19 she didn't have a threshold.</p> <p>20 Q. She could have approved a variance of</p> <p>21 any amount?</p> <p>22 A. Yes.</p> <p>23 Q. Why was that changed?</p> <p>24 A. Because she was cycle counting out</p> <p>25 inventory that was actually there. She was</p>	<p style="text-align: right;">Page 36</p> <p>1 T. DURANT</p> <p>2 automatically approve?</p> <p>3 A. It was \$250.</p> <p>4 Q. Per location?</p> <p>5 A. Per case.</p> <p>6 Q. So a cycle counter goes to a particular</p> <p>7 location in the warehouse, does a count.</p> <p>8 A. Yes.</p> <p>9 Q. If there count is off by more than \$250</p> <p>10 --</p> <p>11 A. -- it would go into a discrepancy file.</p> <p>12 Q. How many counts were going into the</p> <p>13 discrepancy file?</p> <p>14 A. When she was there?</p> <p>15 Q. Yes.</p> <p>16 A. Hundreds.</p> <p>17 Q. Hundreds were going into the</p> <p>18 discrepancy file because the amount of product that</p> <p>19 was counted -- there was a \$250 difference between</p> <p>20 what was counted and what was actually in</p> <p>21 inventory?</p> <p>22 A. She had five counters at that time if</p> <p>23 each counter is 4 or 500 you have to figure about</p> <p>24 100 going into discrepancies. Average about 100</p> <p>25 discrepancy counts per cycle counter.</p>

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<p style="text-align: right;">Page 37</p> <p>1 T. DURANT</p> <p>2 Q. Per day or per week?</p> <p>3 A. That's per day.</p> <p>4 Q. That would be 500 discrepancies per</p> <p>5 day?</p> <p>6 A. She is supposed to work them throughout</p> <p>7 the whole day. By the end of the day they may</p> <p>8 leave about 100 or so in the discrepancy file.</p> <p>9 Q. So your best approximation is that she</p> <p>10 would have to resolve 500 discrepancies per day?</p> <p>11 A. Yes.</p> <p>12 Q. Now let's say that she tells the cycle</p> <p>13 counter go back and count it again.</p> <p>14 A. Yes.</p> <p>15 Q. Can the cycle counter go back and count</p> <p>16 it again?</p> <p>17 A. Yes.</p> <p>18 Q. Do they put information in the RF?</p> <p>19 A. Yes.</p> <p>20 Q. What if there is a discrepancy again?</p> <p>21 A. Then she should walk with them to see</p> <p>22 what it is.</p> <p>23 Q. She should she physically check every</p> <p>24 discrepancy that is not resolved?</p> <p>25 A. Absolutely.</p>	<p style="text-align: right;">Page 39</p> <p>1 T. DURANT</p> <p>2 A. Mean.</p> <p>3 Q. How do you know that she has a</p> <p>4 reputation of being mean?</p> <p>5 A. That's her reputation. It's throughout</p> <p>6 the building.</p> <p>7 Q. That has been through her entire tenure</p> <p>8 at Southern, is that correct?</p> <p>9 A. As far as I know, yes.</p> <p>10 Q. How many discrepancies do you see per</p> <p>11 day?</p> <p>12 A. Now, about 118 or 20 will hit the</p> <p>13 files. That's when I will go to the warehouse and</p> <p>14 walk each one.</p> <p>15 Q. How big is the warehouse?</p> <p>16 A. It's we have over 30,000 locations in</p> <p>17 the warehouse. Square footage I don't know.</p> <p>18 Q. Is all the product stored on floor</p> <p>19 level?</p> <p>20 A. No.</p> <p>21 Q. How high up does it go?</p> <p>22 A. Up to the ceiling.</p> <p>23 Q. Does each one of these -- there are</p> <p>24 thousands of locations. Is there a cube or</p> <p>25 section?</p>
<p style="text-align: right;">Page 38</p> <p>1 T. DURANT</p> <p>2 Q. Is it fair to say that if the cycle</p> <p>3 counters were doing sloppy work that it would make</p> <p>4 the WMI administrator's job very difficult?</p> <p>5 A. Yes.</p> <p>6 Q. In your opinion were any of the cycle</p> <p>7 counters doing any sloppy work?</p> <p>8 A. No.</p> <p>9 Q. How would you know?</p> <p>10 A. I have the same team, pretty much the</p> <p>11 same team. They are pretty good with cycle</p> <p>12 counting.</p> <p>13 Q. Do you know if they got along with</p> <p>14 Maria?</p> <p>15 A. They worked with her for years. I</p> <p>16 don't know.</p> <p>17 Q. Do you know if they got along with her?</p> <p>18 A. That I don't know.</p> <p>19 Q. Do you believe that they get along with</p> <p>20 you?</p> <p>21 A. I would like to think so.</p> <p>22 Q. Does Maria have a particular</p> <p>23 reputation?</p> <p>24 A. Yes.</p> <p>25 Q. What is her reputation?</p>	<p style="text-align: right;">Page 40</p> <p>1 T. DURANT</p> <p>2 A. You have floor racks where it's stacked</p> <p>3 on the floor. Multiple pallets on top of each</p> <p>4 other. There are push backs where there is in a</p> <p>5 rack, two pallets per location. You have hand</p> <p>6 sacks where single cases per location, and you have</p> <p>7 lock up where of course everything is locked up.</p> <p>8 You have bottle room, flow which is on like a belt,</p> <p>9 it is on a roller. You have bottle shelf, it's</p> <p>10 upstairs. Bunch of different type of locations.</p> <p>11 Q. Describe for me how to resolve the 118</p> <p>12 to 120 discrepancies?</p> <p>13 A. I walk each location that comes up with</p> <p>14 a discrepancy. If it's high, I stop a guy to pull</p> <p>15 it down so I can take a look. If it's low, I do it</p> <p>16 myself. I take my RF gun and rescan it, if it is</p> <p>17 incorrect. If it is correct, I place the inventory</p> <p>18 into a research file until I can resolve it.</p> <p>19 Q. When do you start resolving the</p> <p>20 discrepancies approximately?</p> <p>21 A. It could be I try to start between</p> <p>22 three and five, I'll reconcile it. Make sure that</p> <p>23 everything is reconciled before five.</p> <p>24 Q. When did you resolve the discrepancies?</p> <p>25 A. Every night.</p>

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<p style="text-align: right;">Page 41</p> <p>1 T. DURANT</p> <p>2 Q. How long does it take to you resolve</p> <p>3 the discrepancies?</p> <p>4 A. It depends on what the discrepancy is.</p> <p>5 If it's receiving issues it has to wait until the</p> <p>6 receiving department is notified. If it's a cycle</p> <p>7 count issues, it's automatically. It depends why</p> <p>8 it's wrong.</p> <p>9 Q. I am talking about the cycle counters?</p> <p>10 A. Those are done immediately. So if it's</p> <p>11 correct in location I will rescan it with the</p> <p>12 correct total. If it's incorrect I will place the</p> <p>13 inventory if the cases are really not there. Place</p> <p>14 those cases into an inventory research file so it</p> <p>15 will not be sold until I can fix it.</p> <p>16 Q. So you resolve it by putting it into an</p> <p>17 inventory research file?</p> <p>18 A. Yes.</p> <p>19 Q. Is that what Maria should have been</p> <p>20 doing? She should have been putting it into an</p> <p>21 inventory research file?</p> <p>22 A. Yes.</p> <p>23 Q. So when did you resolve -- how many</p> <p>24 cycle count discrepancies are there per day?</p> <p>25 A. It depends on how many cycle counters I</p>	<p style="text-align: right;">Page 43</p> <p>1 T. DURANT</p> <p>2 and 100 cycle count discrepancies?</p> <p>3 A. Yes.</p> <p>4 Q. In total how much time does that take</p> <p>5 you on average day?</p> <p>6 A. It would take me two to three hours and</p> <p>7 depending on what the difference is, what is</p> <p>8 causing the difference.</p> <p>9 Q. Are they any reports which can show the</p> <p>10 cycle count discrepancy in a given day?</p> <p>11 A. Yes.</p> <p>12 Q. How far does that go back?</p> <p>13 A. Like I said everything gets purged once</p> <p>14 a year.</p> <p>15 Q. How many so are there any records which</p> <p>16 would show the actual number of cycle count</p> <p>17 discrepancies that there were when Maria was WMI</p> <p>18 administrator?</p> <p>19 A. I am sure there was not.</p> <p>20 Q. Was it your job to review the cycle</p> <p>21 count discrepancies?</p> <p>22 A. Maria's job.</p> <p>23 Q. Do you know how many cycle count</p> <p>24 discrepancies there were each day when Maria was</p> <p>25 WMI administrator?</p>
<p style="text-align: right;">Page 42</p> <p>1 T. DURANT</p> <p>2 have. If I have one cycle counter it could be 20</p> <p>3 discrepancies. If I have two it could be 60. It</p> <p>4 depends on the day and how many locations they get</p> <p>5 to.</p> <p>6 Q. Do you personally have to go to each</p> <p>7 one of those locations and verify the cycle counts?</p> <p>8 A. I choose to because the financials are</p> <p>9 under my name.</p> <p>10 Q. On an average day how many cycle count</p> <p>11 discrepancies do you have to resolve?</p> <p>12 A. It depends on the day. It could be</p> <p>13 between 60 and 100.</p> <p>14 Q. Do you physically go to the warehouse</p> <p>15 to do that?</p> <p>16 A. I absolutely do.</p> <p>17 Q. Did you do that throughout the day or</p> <p>18 did you do that in the evening?</p> <p>19 A. It depends on what my day looks like.</p> <p>20 I do other things besides the cycle counting.</p> <p>21 Q. How long does it take you to resolve,</p> <p>22 let's say, 10 inventory cycle count discrepancies?</p> <p>23 A. It depends on what the discrepancy is,</p> <p>24 I can't answer that correctly.</p> <p>25 Q. On average day you were resolving 60</p>	<p style="text-align: right;">Page 44</p> <p>1 T. DURANT</p> <p>2 A. It wasn't my job. I don't know.</p> <p>3 Q. Do you have any reason to doubt Maria's</p> <p>4 honesty or truthfulness?</p> <p>5 A. No. I don't know Maria like that.</p> <p>6 Q. Well she had a reputation for being</p> <p>7 mean.</p> <p>8 A. Yes.</p> <p>9 Q. Did she have a reputation for being</p> <p>10 dishonest?</p> <p>11 A. Never heard anything about that.</p> <p>12 Q. In your opinion was she an honest</p> <p>13 person?</p> <p>14 A. I have no idea.</p> <p>15 Q. Did you believe her when she said she</p> <p>16 was overwhelmed?</p> <p>17 A. No.</p> <p>18 Q. Why didn't you believe her?</p> <p>19 A. Because I do the work now. There is no</p> <p>20 way that she was overwhelmed. Now I do her stuff</p> <p>21 and mine.</p> <p>22 Q. At the time did you believe her?</p> <p>23 A. No, because what I was gathering from</p> <p>24 what Melissa was saying and then I would go through</p> <p>25 the steps one by one to see how long it would take.</p>

11 (Pages 41 to 44)

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Page 45	Page 47
<p>1 T. DURANT</p> <p>2 No, I didn't believe her.</p> <p>3 Q. You personally went through all of</p> <p>4 steps that Maria would have to take to resolve</p> <p>5 these discrepancies even though it was not your</p> <p>6 job?</p> <p>7 A. Yes, if they were telling me I would</p> <p>8 have to be sitting in a PIP meeting, I am going to</p> <p>9 find out what has to be done.</p> <p>10 Q. You researched yourself how much time</p> <p>11 it could have taken her?</p> <p>12 A. Absolutely.</p> <p>13 Q. Who told you to do that?</p> <p>14 A. Me.</p> <p>15 Q. Was she your competition?</p> <p>16 A. Not even a little bit.</p> <p>17 Q. For how long was she inventory control</p> <p>18 manager?</p> <p>19 A. I have no idea.</p> <p>20 Q. Do you know if she was inventory</p> <p>21 control manager for more than 10 years?</p> <p>22 A. If that is what she is saying, sure,</p> <p>23 yes. I have no idea.</p> <p>24 Q. Did you confront her with this at the</p> <p>25 meetings that you had that you knew?</p>	<p>1 T. DURANT</p> <p>2 clerks?</p> <p>3 A. Yes.</p> <p>4 Q. And she had the authority to direct</p> <p>5 them and tell them what to do?</p> <p>6 A. Absolutely, they did every day.</p> <p>7 Q. Was her directing the inventory control</p> <p>8 clerks necessary for her to do her job?</p> <p>9 A. Absolutely.</p> <p>10 Q. Was her directing the inventory control</p> <p>11 clerks necessary so that there would not be</p> <p>12 discrepancies that they'd have to be resolved?</p> <p>13 A. Absolutely.</p> <p>14 MR. MOSER: Short recess.</p> <p>15 (Whereupon, a short recess was</p> <p>16 held.)</p> <p>17 BY MR. MOSER:</p> <p>18 Q. When you were inventory control manager</p> <p>19 in accounting did you attend monthly meetings?</p> <p>20 A. Yes. Actually those are quarterly</p> <p>21 meetings. For physical inventory?</p> <p>22 Q. No, monthly meetings with Kevin</p> <p>23 Randall.</p> <p>24 A. No.</p> <p>25 Q. Do you know whether anyone from</p>
Page 46	Page 48
<p>1 T. DURANT</p> <p>2 A. Yes, of how long certain tasks take,</p> <p>3 yes, absolutely.</p> <p>4 Q. What did she respond to that?</p> <p>5 A. You are faster than I am.</p> <p>6 Q. Had southern ever had any complaints</p> <p>7 about Maria's ability to do her job before you and</p> <p>8 John began meeting with her?</p> <p>9 A. You'd have to ask Southern that. I</p> <p>10 don't know what they received complaints for.</p> <p>11 Q. Can you describe anything else that</p> <p>12 would happen at these half-hour, 45-minute meetings</p> <p>13 between you, John and Maria?</p> <p>14 A. It was pretty straight forward. We go</p> <p>15 bullet by bullet with whatever Melissa sent that</p> <p>16 wasn't completed that week and she would have to</p> <p>17 explain herself.</p> <p>18 Q. Was she able to explain herself?</p> <p>19 A. No.</p> <p>20 Q. Was Maria's supervisory authority ever</p> <p>21 taken away?</p> <p>22 A. No.</p> <p>23 Q. So from the date that she became the</p> <p>24 WMI administrator until she separated from</p> <p>25 employment she supervised the inventory control</p>	<p>1 T. DURANT</p> <p>2 accounting attended monthly meetings with Kevin</p> <p>3 Randall?</p> <p>4 A. I would think just the controller.</p> <p>5 Q. Do you know who else attended those</p> <p>6 meetings?</p> <p>7 A. No, I wasn't invited.</p> <p>8 Q. When you were inventory control manager</p> <p>9 in accounting they did inventory every single</p> <p>10 quarter, correct?</p> <p>11 A. That's correct.</p> <p>12 Q. What dates did they do it</p> <p>13 approximately?</p> <p>14 A. January, April, probably. I am not</p> <p>15 sure. I don't remember.</p> <p>16 Q. Were you involved in the physical</p> <p>17 inventory?</p> <p>18 A. Yes.</p> <p>19 Q. What was your involvement?</p> <p>20 A. Entering the data. Reconciling the</p> <p>21 inventory levels.</p> <p>22 Q. Did you interact with Maria Suarez at</p> <p>23 all?</p> <p>24 A. Only to pick up the data, the books.</p> <p>25 Q. What do you mean?</p>

12 (Pages 45 to 48)

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<p style="text-align: right;">Page 49</p> <p>1 T. DURANT</p> <p>2 A. Her team goes out, go to each location</p> <p>3 the paper and pen and completes the inventory. Go</p> <p>4 to each location and verify counts.</p> <p>5 Q. She would report to you what the actual</p> <p>6 data was?</p> <p>7 A. She would -- everything is in books, so</p> <p>8 paper. She would send over the books and we would</p> <p>9 go over the books and enter the data into the</p> <p>10 system so we can reconcile inventory.</p> <p>11 Q. Did you ever speak with Maria before?</p> <p>12 A. Only if she was submitting books.</p> <p>13 Q. Did you ever speak with Maria before</p> <p>14 you became the WMI inventory control manager?</p> <p>15 A. I have had conversations with Maria,</p> <p>16 yes.</p> <p>17 Q. Did you ever have any disagreements?</p> <p>18 A. No.</p> <p>19 Q. Did you think that she was mean?</p> <p>20 A. I thought she was just Maria. She is</p> <p>21 very hard when speaking to people.</p> <p>22 Q. Did you and Maria have any</p> <p>23 disagreements about inventory or accounting before</p> <p>24 you became WMI inventory control manager?</p> <p>25 A. None.</p>	<p style="text-align: right;">Page 51</p> <p>1 T. DURANT</p> <p>2 A. Yes.</p> <p>3 Q. On how many different occasions?</p> <p>4 A. Probably monthly.</p> <p>5 Q. What were you reporting to Mr. Randall?</p> <p>6 A. Of the things that Melissa saying was</p> <p>7 not done. Which he in turn had Melissa come down</p> <p>8 on a monthly basis to help her.</p> <p>9 Q. Melissa would contact you and let you</p> <p>10 know that certain things were not done?</p> <p>11 A. She would contact me to see why certain</p> <p>12 thing were not done. She was monitoring Maria's --</p> <p>13 she was training her.</p> <p>14 Q. And then you would inform --</p> <p>15 A. I told her she has to contact John</p> <p>16 Wilkinson.</p> <p>17 Q. You would also talk to Kevin Randall</p> <p>18 about that?</p> <p>19 A. I would talk to Kevin, yes.</p> <p>20 Q. Are you happy Maria's gone?</p> <p>21 A. It doesn't phase me.</p> <p>22 MR. MOSER: I have no further</p> <p>23 questions.</p> <p>24 MS. CABRERA: I have a couple.</p> <p>25 BY MS. CABRERA:</p>
<p style="text-align: right;">Page 50</p> <p>1 T. DURANT</p> <p>2 Q. You never had a disagreement with her?</p> <p>3 A. No.</p> <p>4 Q. Were you involved in the decision to</p> <p>5 terminate Maria Suarez?</p> <p>6 A. No.</p> <p>7 Q. Did anybody ask you for your input as</p> <p>8 to whether she should be selected as part of the</p> <p>9 layoff?</p> <p>10 A. No.</p> <p>11 Q. Who was involved in that?</p> <p>12 A. You would have to ask Kevin.</p> <p>13 Q. Did Kevin ever ask you for your opinion</p> <p>14 of Maria?</p> <p>15 A. No.</p> <p>16 Q. Did you report directly to Kevin?</p> <p>17 A. Yes.</p> <p>18 Q. We're talking about Kevin Randall?</p> <p>19 A. Kevin Randall, yes.</p> <p>20 Q. For how long did you report to Kevin</p> <p>21 Randall?</p> <p>22 A. As soon as I became WMI inventory</p> <p>23 control manager.</p> <p>24 Q. Did you ever talk to Kevin Randall</p> <p>25 about Maria's performance?</p>	<p style="text-align: right;">Page 52</p> <p>1 T. DURANT</p> <p>2 Q. In the meetings that you had with John</p> <p>3 and Maria, the one-on-one meetings that you were</p> <p>4 asked about, did Maria ever say these tasks are not</p> <p>5 in my job description?</p> <p>6 A. No.</p> <p>7 Q. Did she ever say to John, Hey, you took</p> <p>8 away my direct report, so I can't get all of this</p> <p>9 done?</p> <p>10 A. No.</p> <p>11 Q. Did she ever say the cycle counters are</p> <p>12 not doing their jobs?</p> <p>13 A. No.</p> <p>14 Q. By the way, if the cycle counters are</p> <p>15 not doing their jobs who would be responsible for</p> <p>16 holding them accountable?</p> <p>17 A. Maria.</p> <p>18 Q. Did Maria strike you as someone that</p> <p>19 remains silent if she felt that she was being</p> <p>20 treated unfairly?</p> <p>21 A. No.</p> <p>22 Q. Why did you say that?</p> <p>23 A. She is very vocal.</p> <p>24 Q. I am going to ask you to look at</p> <p>25 Exhibit 7 again. Now it looks to me when you look</p>

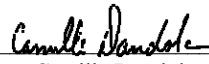
13 (Pages 49 to 52)

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<p style="text-align: right;">Page 53</p> <p>1 T. DURANT</p> <p>2 at the scans attached to the e-mail. I count 43</p> <p>3 screen shots and for the record I am going to</p> <p>4 represent that the screen shots go from 2166 to</p> <p>5 2209.</p> <p>6 A. Okay.</p> <p>7 Q. At the top-right corner of each page</p> <p>8 there's a date.</p> <p>9 A. Yes.</p> <p>10 Q. What date is that?</p> <p>11 A. That's the date the screen shot was</p> <p>12 taken.</p> <p>13 Q. Counsel asked you earlier about one</p> <p>14 specific screen shot. Do you recall that?</p> <p>15 A. Yes.</p> <p>16 Q. He asked you what percentage of work of</p> <p>17 the daily work load that one screen shot</p> <p>18 represented?</p> <p>19 A. Yes.</p> <p>20 Q. Do you recall that testimony?</p> <p>21 A. I do.</p> <p>22 Q. If that one screen shot represented one</p> <p>23 percent of her daily work load can you tell us what</p> <p>24 percentage of the daily work load is represented by</p> <p>25 all 43 screen shots?</p>	<p style="text-align: right;">Page 55</p> <p>1 T. DURANT</p> <p>2 BY MR. MOSER:</p> <p>3 Q. Did Maria apply for the WMI inventory</p> <p>4 control manager position?</p> <p>5 A. I have no idea.</p> <p>6 Q. Did Kevin Randall tell you that he was</p> <p>7 giving you that position instead of Maria?</p> <p>8 A. No, I applied for it.</p> <p>9 Q. Did Kevin Randall ever tell Maria that</p> <p>10 he was giving you the WMI inventory control manager</p> <p>11 position instead of her?</p> <p>12 A. I don't know.</p> <p>13 Q. Were your job duties pretty much the</p> <p>14 same as when you became WMI inventory control</p> <p>15 manager as when you were inventory control manager?</p> <p>16 A. Pretty much the same.</p> <p>17 Q. Did you receive an increase in salary?</p> <p>18 A. Yes.</p> <p>19 Q. By how much?</p> <p>20 A. I don't want to disclose that. Do I</p> <p>21 have to disclose that?</p> <p>22 MS. CABRERA: Unfortunately, yes.</p> <p>23 A. I don't know. I don't remember.</p> <p>24 Q. There are records that it went to</p> <p>25 approximately \$75,000 a year.</p>
<p style="text-align: right;">Page 54</p> <p>1 T. DURANT</p> <p>2 A. This would be multiple days. For her</p> <p>3 to reconcile this would probably take about this</p> <p>4 would take maybe two hours. So this would be</p> <p>5 probably 20 percent of her day. Only because it's</p> <p>6 so far back it is aging. Now it will take longer</p> <p>7 to reconcile.</p> <p>8 Q. How do you know that this is over</p> <p>9 multiple days?</p> <p>10 A. The screen shot date at the</p> <p>11 top-right-hand corner.</p> <p>12 Q. So is it fair to say that Exhibit 7 is</p> <p>13 addressing 43 different screen shots. Within each</p> <p>14 screen shot there are multiple issues?</p> <p>15 A. Yes.</p> <p>16 Q. Going back to the meetings with Maria.</p> <p>17 A. Ys.</p> <p>18 Q. Did she ever say I was never trained on</p> <p>19 how to do this?</p> <p>20 A. No.</p> <p>21 MS. CABRERA: I have no further</p> <p>22 questions.</p> <p>23 MR. MOSER: Can I just take a look</p> <p>24 at that.</p> <p>25 MS. CABRERA: (Handing.)</p>	<p style="text-align: right;">Page 56</p> <p>1 T. DURANT</p> <p>2 A. That sounds about right.</p> <p>3 Q. When you were inventory control</p> <p>4 manager, before you received the WMI inventory</p> <p>5 control manager position, what was your salary?</p> <p>6 A. Probably 55-65.</p> <p>7 Q. If your job was more or less the same</p> <p>8 do you know why they were --</p> <p>9 A. Because taking on a bigger load.</p> <p>10 Meaning I now have the physical cases to look</p> <p>11 after. Overall the reconciliation is pretty much</p> <p>12 the same.</p> <p>13 Q. When you say that you "have the</p> <p>14 physical cases to look after," what do you mean?</p> <p>15 A. I manage the cases coming in the</p> <p>16 building and going out.</p> <p>17 Q. As well as all the physical inventory</p> <p>18 in the building?</p> <p>19 A. Yes.</p> <p>20 Q. Who had that responsibility before you</p> <p>21 were given that responsibility?</p> <p>22 A. I have no idea.</p> <p>23 Q. How were you responsible for the</p> <p>24 physical inventory?</p> <p>25 A. What do you mean "responsible for"?</p>

14 (Pages 53 to 56)

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<p style="text-align: right;">Page 57</p> <p>1 T. DURANT</p> <p>2 Q. You say that your duties didn't change</p> <p>3 except -- let me not put words in your mouth.</p> <p>4 Let's go back.</p> <p>5 When you say that you had the</p> <p>6 responsibility to look after the physical cases,</p> <p>7 what do you mean?</p> <p>8 A. I now handle all suppliers. Which</p> <p>9 means the exit of those cases. I now have to</p> <p>10 update expiration dates on bins. Make sure that</p> <p>11 stuff is accurate. Bins are one in a box and once</p> <p>12 those expired I have to get those out of the</p> <p>13 building. There's a lot of other responsibilities</p> <p>14 that I am doing other than reconciliation of</p> <p>15 inventory.</p> <p>16 Q. When you say that you were in control</p> <p>17 of the inventory what do you mean? The physical</p> <p>18 inventory I mean.</p> <p>19 A. I am responsible for cases, the overall</p> <p>20 case count.</p> <p>21</p> <p>22 (Jurat to continue on the following page.)</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 59</p> <p>1 T. DURANT</p> <p>2 I N D E X</p> <p>3 EXAMINATION BY PAGE</p> <p>4 MR. MOSER 4, 54</p> <p>5</p> <p>6 MS. CABRERA 51</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 58</p> <p>1 T. DURANT</p> <p>2 Q. Who was responsible for that before</p> <p>3 that responsibility was given to you?</p> <p>4 A. I don't know.</p> <p>5 MR. MOSER: I have no further</p> <p>6 questions.</p> <p>7 (Time noted: 2:54 p.m.)</p> <p>8 _____.</p> <p>9 Tonisha Durant</p> <p>10 Subscribed and sworn to</p> <p>11 Before me this ____ day</p> <p>12 _____, 2022.</p> <p>13</p> <p>14 _____</p> <p>15 NOTARY PUBLIC</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 60</p> <p>1 T. DURANT</p> <p>2 C E R T I F I C A T E</p> <p>3 State of New York)</p> <p>4 County of Nassau)</p> <p>5 I, Camille Dandola, a Shorthand Reporter</p> <p>6 and Notary Public of the State of New York, do</p> <p>7 hereby certify:</p> <p>8</p> <p>9 That, Tonisha Durant, the witness whose</p> <p>10 examination is hereinbefore set forth, was</p> <p>11 duly sworn, and that such examination is a</p> <p>12 true record of the testimony given by such</p> <p>13 witness.</p> <p>14</p> <p>15 I further certify that I am not related</p> <p>16 to any of the parties to this action by blood</p> <p>17 or marriage; and that I am in no way</p> <p>18 interested in the outcome of this matter.</p> <p>19</p> <p>20 </p> <p>21 Camille Dandola</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

15 (Pages 57 to 60)

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1	ERRATA SHEET FOR: TONISHA DURANT		
2	TONISHA DURANT, being duly sworn, deposes and		
3	says: I have reviewed the transcript of my		
4	proceeding taken on 10/04/2022. The following		
5	changes are necessary to correct my testimony.		
6	PAGE LINE	CHANGE	REASON
7	----	-----	-----
8	----	-----	-----
9	----	-----	-----
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20	----	-----	-----
21	----	-----	-----
22	----	-----	-----
23	Witness Signature: _____		
24	Subscribed and sworn to, before me		
25	this ____ day of _____, 20 ____.		
	_____ (NOTARY PUBLIC)	_____ MY COMMISSION EXPIRES	

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